

**REMARKS**

Claims 1-21 are pending and under consideration in the above-identified application.

Claims 8-15 stand withdrawn from consideration pursuant to a restriction requirement.

In the Final Office Action dated February 18, 2010, the Examiner rejected claims 1-7 and 16-21.

With this Amendment, claims 1-7, 17 and 19-21 were amended. No new matter has been introduced as a result of the amendments.

**I.      35 U.S.C. § 112 Indefiniteness Rejection of Claims**

Claims 1-7 and 16-21 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response to the objection, Applicant amended the claims per the Examiner's suggestions and provided proper antecedent basis for the claim limitations. As such, the above rejection is now moot. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

**II.     35 U.S.C. § 102 Anticipation Rejection of Claims**

Claims 1-5, 7 and 17-21 were rejected under 35 U.S.C. 102(b) as being anticipated by Takeuchi et al. (U.S. Patent No. 5,807,645). Applicant respectfully traverses this rejection.

The claims require a non-aqueous electrolyte battery that includes an anode having an anode mixture. The anode mixture includes a gas adsorbing carbon material formed of a carbonaceous material including an electroconductive carbon black. As discussed in the specification, the gas adsorbing carbon is effective to adsorb a gas evolved within the battery.

The Examiner argued that Takeuchi et al. teaches that both the anode and the cathode include charge transfer active materials. Office Action, page 4. Applicant respectfully disagrees.

Takeuchi et al. teaches that charge transfer active materials include an active material mixed with a relatively low surface area carbonaceous diluent and graphite. Takeuchi et al., Col. 1, lines 63-67. Takeuchi et al. clearly teaches the addition of a charge transfer active material to the cathode, but not the anode. Takeuchi et al., Col. 1, line 63 - col. 2, line 4. Specifically, Takeuchi et al. states that the “invention is directed to the inclusion of a minor amount of a low surface area carbonaceous diluent and a greater amount of graphite as discharge promoter materials added to the cathode active material.” Takeuchi et al., Col. 2, lines 1-4 (emphasis added).

The portion of the specification (col. 3, line 66 - col. 5, line 7) that the Examiner points to in support of this argument Takeuchi et al. teaches that the carbonaceous material is added to the cathode active material and the anode active material, further supports that Takeuchi et al. only teaches the addition of the charge transfer active materials to the cathode. Specifically, col. 3, line 66- col. 4, line 62 lists examples of the cathode active material that include the charge transfer active material, whereas col. 4, line 63-67 lists “anode active materials acceptable for use with the present cathode comprise metals selected from groups IA and IIA of the Periodic Table of Elements.” None of the suitable anode active materials include the charge transfer active materials; because Takeuchi et al. teaches that the charge transfer active materials are added to the cathode, not the anode.

As such, Takeuchi et al. fails to teach all the required limitations of claims 1-5, 7 and 17-21. Thus, claims 1-5, 7 and 17-21 are patentable over the above cited reference. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

Claims 1-5, 16 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Mitsufumi et al. (JP 09-035,718). Applicant respectfully traverses this rejection.

Mitsufumi et al. teaches an alkaline battery that includes a liquid alkaline electrolyte solution. Mitsufumi et al., paragraph [0029]. Mitsufumi et al. also teaches a binder that is a polymer material, which is added to the active material. Mitsufumi et al., paragraph [0035]. However, Mitsufumi et al. does not teach that the polymer binder is part of the liquid alkaline electrolyte solution, much less part of the electrolyte of a non-aqueous electrolyte battery as required by the claims. As such, Mitsufumi et al. fails to teach all the required limitations of the claims. Thus, claims 1-5, 16 and 20 are patentable over the above cited references. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

**III. 35 U.S.C. § 103 Obviousness Rejection of Claims**

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Takeuchi et al. (U.S. Patent No. 5,807,645) in view of Bannai (U.S. Patent No. 6,503,656) and/or EP 1063713. Applicant respectfully traverses this rejection.

As discussed above, Takeuchi et al. fails to teach all of the claim limitations of independent claim 1. Accordingly the combination of Takeuchi et al. with Banni and/or EP 1063713 also fails to teach all of the claimed limitations of dependent claim 6 for at least the same reasons as discussed above. Thus, dependent claim 6 is patentable over the cited references. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

**IV. Conclusion**

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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